

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

CRYSTAL CLAYTON,

Plaintiff,

v.

COMMERCIAL RECOVERY SYSTEMS,
INC.,

Defendant.

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Civil Action No. 5:12-cv-00771-FB

PLAINTIFF’S APPLICATION FOR ENTRY OF DEFAULT & DEFAULT JUDGMENT

Plaintiff, Crystal Clayton, hereby applies for the entry of default against Defendant, Commercial Recovery Systems, Inc. (“Defendant”), and requests entry of default judgment pursuant to Rule 55.

“When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party’s default.” Fed. R. Civ. P. 55(a). Defendant was served with Plaintiff’s Complaint on October 2, 2012 (Doc. 6). To date, Defendant has failed to file an Answer or otherwise appear before this Court, nor has Defendant offered any explanation for its failure to answer Plaintiff’s operative Complaint.

“If the plaintiff’s claim is for a sum certain or a sum that can be made certain by computation, the clerk—on the plaintiff’s request, with an affidavit showing the amount due—must enter judgment for that amount and costs against a defendant who has been defaulted for not appearing and who is neither a minor nor an incompetent person.” Fed. R. Civ. P. 55(b)(1). Defendant is not a minor, nor an incompetent person, nor on active military duty. Accordingly,

Plaintiff seeks default against Defendant, Commercial Recovery Systems, Inc. Plaintiff seeks statutory damages under the federal Fair Debt Collection Practices Act in the amount of four thousand five hundred ten dollars (\$4,510.00), representing statutory damages in the amount of one thousand dollars (\$1,000.00), 15 U.S.C. § 1692(k)(a)(2)(A), three thousand dollars (\$3,000.00)¹ in attorney fees and five hundred ten dollars (\$510.00) for court costs. Plaintiff also requests pre-judgment and post-judgment interest at the applicable rate(s).

This application is supported by the declaration of the undersigned, attached hereto.

Dated: February 6, 2013

Respectfully submitted,

By: /s/ Joseph Panvini
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Attorney-in-Charge for Plaintiff
CRYSTAL CLAYTON

¹ Plaintiff has incurred in excess of \$4122.50 in attorneys' fees but in the exercise of billing discretion seeks \$3,000.00.